vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.578 OF 2000

Dattatraya Shankar Kumbhar ... Appellant

V/s.

Jotiram Shankar Kumbhar & Ors. ... Respondents

Mr.S.U. Dhakephalkar for Applicant

Mr.Mihir Desai for Respondents

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **APRIL 7, 2010**

P.C.:

1. The second appeal is preferred against the concurrent findings of fact recorded by both the Courts below. The Courts have concluded that the defendants had not proved the earlier partition as alleged by them. The Courts have, therefore, decreed the suit and directed partition of the property. The shares of the defendants have been allotted to them as 1/3rd of the suit property each in gat Nos.243, 560, 563 and 300, 300(1), 322/A.

2. These are the findings of fact which need not be interfered in a second appeal. Second appeal is therefore dismissed.

vss

THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.260 OF 2010
IN
SECOND APPEAL NO.578 OF 2000

Office Notes, Office Memoranda of Coram, appearances, Court's order or Directions and Registrar's Orders	Court's or Judge's Orders

Mr.S.U. Dhakephalkar for Applicant
Mr.Mihir Desai for Respondent

CORAM: **SMT.NISHITA MHATRE,J.**

DATED: **APRIL 7, 2010**

P.C.:

The civil application has been filed for restoring the second appeal. There is a delay in filing the application of 2 years and 86 days. The application is opposed on behalf of the respondent on several grounds.

2. Considering the application and the submissions at the bar, in my view, the application can be allowed on payment of costs.

3. Accordingly, the civil application is allowed with costs quantified at Rs.2,000/- to be paid to the respondents within two weeks from today.